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MARK SCHOESLER
Representative
DON COX

• **9th District** •
2004 Legislative Review

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April 2004

Dear Friends,

The Legislature concluded its 60-day session March 11 – a session notable both for its accomplishments and disappointments.

Approval of a package of bills to combat mad cow disease and help revive Washington's beef industry is high on our list of successes. Other achievements include passage of legislation to toughen penalties for sex crimes against children, a replacement for the state's primary election system, renewed tax breaks for high-tech research and development, and a compromise supplemental budget requiring no new taxes and which leaves \$300 million in reserves.

On the downside of the legislative ledger, it was disappointing that there was no progress toward reining in soaring medical malpractice insurance costs – a growing crisis that many of us regard as one of the state's most critical public-policy issues. There were also missed opportunities to limit agency rule-making, and to moderate the state minimum wage by stopping automatic increases during periods of high unemployment.

This newsletter provides a summary of some of the issues we tackled this session, and provides information on how we can keep in touch during the interim. Even though the legislative session has concluded, we are always glad to hear from you, and welcome your ideas and opinions.

Sincerely,

A handwritten signature in blue ink that reads "Mark Schoesler".

Mark Schoesler
State Representative

A handwritten signature in blue ink that reads "Don Cox".

Don Cox
State Representative

Mad cow bills provide tax relief, assurances of a safe food supply

As the legislative session got underway Jan. 12, the state's agriculture community was facing a crisis. Just weeks before, a Holstein in Mabton, Yakima County, had tested positive with the country's first known case of bovine spongiform encephalopathy, or BSE. Discovery of the infected animal dealt the meat industry a punishing blow: livestock prices fell 20 percent, and about 50 foreign counties, including Japan, Mexico and South Korea, banned U.S. beef, its byproducts or live cattle after the case of mad cow disease was confirmed. Millions of dollars of Washington beef went undelivered, and jobs were threatened as the processing industry drastically curtailed production.



Rep. Schoesler stepped forward quickly, introducing key bills and co-sponsoring others to combat the disease, limit economic damage to the struggling packing industry, and provide further certainty to consumers that their food supply is safe.

Three House bills and a Senate measure passed the Legislature on the final day of the session, and were signed into law March 30.

Schoesler's **House Bill 2802** makes it a gross misdemeanor to transport or deliver live "downer" cows, except for medical care or euthanasia, to ensure that they do not enter the beef supply. Downer cattle, non-ambulatory animals which are unable to walk or stand on their own, have a higher statistical likelihood of carrying BSE. Violators will be subject to a fine of up to \$5,000 and a year in jail.

Also signed into law was **House Bill 2929**, a measure Schoesler prime-sponsored that suspends the business and occupation tax for the state's meat processing industry until foreign countries lift their embargoes and begin accepting American beef again. Beef processors (slaughterhouses and meat packers) have been hit hard by the loss of international sales. The bill provides tax relief that is temporary and tied to the lifting of export restrictions. There is every reason to believe the market will rebound, but in the meantime, the bill will protect jobs and help the beef in-

dustry and other interdependent businesses hang on until the primary foreign markets reopen.

A third measure, **House Bill 2299**, starts Washington on the path to join a federal "cradle-to-grave" animal identification and tracking system. Still under development by the U.S. Department of Agriculture, the program is aimed at tracing livestock across state and county lines.

The fourth part of the BSE package was **Senate Bill 6107**, which broadens the authority of the Department of Agriculture to quarantine an animal or its reproductive products for disease control, and to conduct related tests, examinations or inspections.

American beef is the highest quality in the world, and the Legislature took important steps this year to help sustain the meat industry and build customer confidence that the product they put on their tables is safe and wholesome.

The BSE bills were signed into law the same week that the U.S. Department of Agriculture announced that Washington State University had been selected as the site of one of seven campus-based laboratories to be part of the USDA's program to increase testing for mad cow disease. The WSU veterinary school will test about 5,200 animals from Washington during the coming year, and may also get USDA approval to test cattle from Idaho and Oregon.

Other bills sponsored this session by Rep. Schoesler

- Signed by Gov. Locke March 30, **House Bill 2504** allows deep-well irrigators in the Odessa sub-aquifer to supplement groundwater with conserved surface water from the Columbia Basin Project. The bill provides assurances that farmers will be able to take what may be interruptible water from the project without losing any portion of their existing water right, and get the water they need to irrigate for the future. The new law does not allow an expansion of irrigated acres. The bill specifies that property owners may not spread an existing water right.
- Also signed March 30, **House Bill 2307** broadens eligibility requirements for service as a non-water-right-holding member of a water conservancy board. The bill allows non-water-right-holding commissioners to include those who get their water from municipal suppliers, or who get their water from exempt wells used for residential use and located in a county with a population of 150,000 or less.

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In his leadership role as ranking Republican on the Agriculture and Natural Resources Committee, Rep. Schoesler was instrumental in winning passage of critical legislation addressing after-shocks of the first U.S. case of mad cow disease.

A new state primary system

Developing a responsible solution to a bad situation was the challenge we faced in finding common ground on replacing the state's popular but unconstitutional blanket primary.

The compromise plan that passed the Legislature — the **Top 2** system — would allow voters to pick their favorite candidate for each office regardless of party affiliation. The top two vote-getters (potentially from the same party) would advance to the November ballot. The measure also included a “fallback” provision — a **Montana-style primary** — requiring that a voter mark only one party's ballot, but ballot choice would be kept private.

The bill that got the final nod was not an ideal solution, but it came closest to preserving the most cherished elements of the nearly 70-year-old blanket primary: allowing independent-minded voters to keep party affiliation private while ensuring maximum choice

On April 1, Gov. Locke vetoed the “Top 2” part of the bill, and the backup Montana plan was left in place. The choice of parties remains confidential and no party registration will be required. Legal challenges were filed immediately, and the Washington Grange has launched an initiative campaign to overturn Locke's veto.

Child Protection Act of 2004

A high point of the session was approval of GOP legislation to make it tougher for child molesters and rapists to get treatment and lighter jail sentences. All but declared dead at mid-session, the **Child Protection Act of 2004** took on new momentum after heavy pressure was exerted on the majority party by strongly motivated community activists.

The bill provides major revisions to the state's Special Sex Offender Sentencing Alternative law (SSOSA), which in the past has allowed offenders to serve only up to six months in jail and then enter state-supervised treatment in the community.



The measure reiterates the Legislature's support for existing life sentences for “most serious” sex offenses under the state's determinate sentencing law. The measure also makes the following offenders ineligible for SSOSA:

- Offenders who have an adult conviction for a violent offense in the last five years;
- Offenders who cause substantial bodily harm to the victim;
- Offenders who do not have an established relationship with the victim before the crime.

The bill requires that the court impose confinement up to one year, which is not subject to earned release, but may be served in partial confinement. A longer sentence may be imposed if there is an aggravating factor. Treatment of up to five years may also be imposed.

The new law is a scaled-down version of what we originally proposed, but it's an important step toward ensuring that people who commit these repugnant crimes against children receive the punishment they deserve.

Coaches and teachers who prey

Spurred by a Seattle Times investigative report that revealed instances where school personnel who had been reprimanded or fired for sexual misconduct with female athletes had been able to move from district to district, the Legislature took action to protect students from predatory coaches and teachers.

Senate Bill 5533 requires school districts to share information with other districts about the sexual misconduct of current and former employees. The measure also prohibits school districts from entering into severance agreements with employees who conceal sexual-misconduct complaints.

Senate Bill 6171 makes it easier for the state to investigate complaints from parents about possible abuse. The measure sets a one-year deadline for the Office of the Superintendent of Public Instruction to conclude sexual-misconduct investigations of school employees. The Times reported the current average is two years.

Teachers and coaches hold positions of trust and admiration in our communities, and most educators comport themselves with caring professionalism around our kids. A coach or teacher who has hurt a child must not be allowed to continue working with kids. These bills will help weed those individuals out of the system and provide further assurances to parents and students that our classrooms and athletic programs are safe.

Legislature misses chance to pass meaningful lawsuit reform

Tort reform took center stage in mid-February, but rather than adopting solutions to stop out-of-control jury awards, the majority party pushed through the House a cluster of bills that fell short of meaningful reform.



Making limited changes around the edges of the problem will not work. The better approach was a comprehensive Senate bill comprising proposals

that have helped solve the problem in other states. In the end, however, the measure died in the House for a second consecutive year.

With insurers abandoning whole business sectors and doctors scaling back their practices, retiring early, or leaving Washington to practice in other states, tort reform has

taken on an air of emergency. Jury awards for pain and suffering can be staggering, and are driving malpractice insurance costs through the roof.

The Senate bill dealt not only with malpractice changes, but also proposed new limits on who could sue whom and for what. A key element of the measure would set a \$350,000 cap on damages for pain and suffering, but would not limit economic damages. A similar limit was adopted in California in 1975. Since then growth in malpractice insurance costs has slowed dramatically.

We do not want to close the door for injured patients, or those who are maimed, disabled or killed by bad doctors. But to achieve real medical liability reform, we need to focus on restoring balance to a system strained by big settlements and juries looking to assign blame.

Election-year restrictions

As your state legislators, we make every effort to keep you informed of what is happening in Olympia. However, this is an election year, and under the provisions of Initiative 134, we can only send two in-district mailings – this newsletter being the second of the two allowed in 2004.

The initiative *does permit* us to respond to your direct requests for information, and I encourage you to write or call whenever you have a question or a comment to share on legislation or other matters.

Mark and Don

Supplemental budget

As one of its final actions before adjournment, the Legislature approved a compromise supplemental budget. Although it increases spending by \$165 million, the proposal requires no new taxes and leaves over \$278 million in reserves – a significant improvement over the original House Democrat budget, which left a reserve balance of less than 1 percent to cover emergencies and unforeseen expenses.

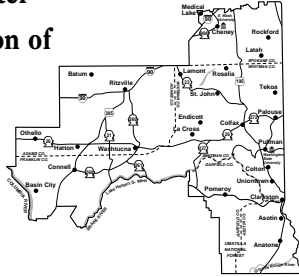
Included in the budget are new higher education enrollment slots for high-demand fields, a 1 percent pay increase for classified public school employees, and almost \$13 million in new spending on nursing homes and the state's contract with home health-care workers created by House Bill 1777 and Initiative 775.

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Good news, disappointment in capital budget

The 2004 supplemental construction budget provides funding for important 9th District projects at WSU, EWU and Spokane Falls Community College:

- **\$31 million for Washington State University's Riverpoint Academic Center**
- **\$8.1 million for renovation of Senior Hall at Eastern Washington University**
- **\$1.8 million for Spokane Falls Community College's Business and Social Science building**



A major disappointment was Gov. Locke's unexpected veto of \$3.4 million for the WSU wastewater reclamation project. The veto was a shock to everyone, particularly because the project had been included in the governor's original budget proposal.

Washington State University consumes about 2.8 million gallons of water per day from the Moscow-Pullman aquifer, an underground water table that is declining by more than a foot per year. Modifying the wastewater treatment system would allow WSU to use 1.3 million gallons of treated water per day for landscaping and to cool the WSU energy plant.

Economic development

Passage of the high-tech tax incentive measure, was one of the session's early achievements. **House Bill 2546** renews a set of tax credits associated with research and development or pilot-scale manufacturing in high-technology industries. Hundreds of small high-tech firms have benefited from the tax credits and exemptions, which also are vital for supporting industries designated as "targets," like advanced computing, semiconductors and biotechnology. The incentives would have expired this year without legislative action.

Another employer-oriented bill was **House Bill 2460**, which was brought back to life just before the final gavel fell. House Republicans want employers who are faced with dropping their health plan completely, or asking their employees to pay higher premiums, to have the choice of shopping for a simpler, more affordable plan. We also want to give small employers who can't afford to offer coverage a greater level of access to plans that might be within their

price range. The compromise version of HB 2460 isn't as helpful as we would like, but it's a step in the right direction.

Education

WASL changes win final approval

House Bill 2195 allows students as many as five chances to pass the 10th grade Washington Assessment of Student Learning. Formerly, students had one opportunity to pass the exam. If they failed, they wouldn't graduate, and the failure rate was high – with only about a third of 10th grade students passing the test last year. The bill provides up to four retakes and directs the Superintendent of Public Instruction to devise alternatives for students who fail the exam.

A similar measure was passed twice by the House in 2003, but until this year, the Senate and House couldn't reach agreement.



Rep. Don Cox serves on the Education Committee and as ranking republican on the Higher Education Committee. He brings to these key assignments a record of achievement as a teacher, superintendent, university professor and administrator. His insights and leadership on education issues are valued by legislative colleagues on both sides of the aisle.

Higher education

Preparing for the future needs of incoming students

Important strides were made this session in higher education. The supplemental budget included 3,000 new higher education slots and \$145 million for enrollments in “high demand” degree fields, such as nursing and engineering. While these are positive steps for higher education access and affordability, additional planning is crucial if we are going to keep up with projected enrollment increases in the years ahead.

Approximately 45,000-60,000 enrollment slots will be needed to maintain current access levels for record numbers of students expected to graduate from Washington high schools in



the next six to eight years. Without legislative action to meet the expected demand, graduating seniors may find the doors to higher education closed, or tuition too costly.

As the lead Republican on the House Higher Education Committee, Rep. Cox co-sponsored and was instrumental in passing **House Bill 3103**, which provides direction to the Higher Education Coordinating Board in working with the Legislature to study upcoming demands on public colleges and universities and creating a master plan to meet those needs. The legislation also requires the board to establish an accountability system and work more closely with other education agencies to improve transitions between K-12 and higher education.

In addition to HB 3103, a pilot project was funded in the budget to study performance contracts with Washington State University and the University of Washington in an effort to identify cost-saving methods. The combination of these measures will help better prepare our state’s universities and colleges to meet the needs of future students.

